

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

LAMONT HEARD,

Plaintiff,

v.

Case No. 2:05-cv-231
HON. PAUL L. MALONEY

PATRICIA CARUSO, et al.,

Defendants.

REPORT AND RECOMMENDATION

Plaintiff Lamont Heard claims that defendants' conduct violated his rights under the equal protection clause and the Religious Land Use and Institutionalized Persons Act 42 U.S.C. § 2000cc-1 (RLUIPA) for refusing to provide him with a requested religious diet, and that he was wrongfully placed in maximum security without due process of law after being designated a security threat. The court initially dismissed these claims. Plaintiff appealed the dismissal of these claims as well as other dismissed claims and issues arising out of a no cause of action jury trial. The Sixth Circuit remanded these claims for further consideration by the court.

Plaintiff has filed a motion for summary judgment on each of the remaining issues arguing that he is entitled to judgment and damages from defendants. Defendants have asserted that a period of discovery is appropriate before the court rules on summary judgment motions. Defendants would like to depose the plaintiff and his fact witnesses. Under the circumstances of this case, it is appropriate to allow both parties to engage in discovery on the remanded issues before the court rules on summary judgment motions.

Accordingly, it is recommended that plaintiff's motion for summary judgment (Docket #299) be denied without prejudice.

NOTICE TO PARTIES: Objections to this Report and Recommendation must be served on opposing parties and filed with the Clerk of the Court within fourteen (14) days of receipt of this Report and Recommendation. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); W.D. Mich. LCivR 72.3(b). Failure to file timely objections constitutes a waiver of any further right to appeal. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also *Thomas v. Arn*, 474 U.S. 140 (1985).

/s/ Timothy P. Greeley

TIMOTHY P. GREELEY
UNITED STATES MAGISTRATE JUDGE

Dated: May 27, 2010